

REMARKS

In the final rejection, the Examiner maintained a rejection of claims 1-4 and 28-31 under 35 U.S.C. § 112, referring applicants to the Office Action of April 25, 2006. That Office Action conceded enablement for SEQ ID NO: 3.

Claims 1-4 and 28-31 have been amended, such that product claims 1-4 now refer to SEQ ID NO: 3 only, and claims 28-31 depend therefrom. Hence, these claims should now be allowable.

On December 5, 2005, there was a Restriction Requirement in this case. Method claims 11 and 27-44 were withdrawn from consideration, subject to allowance of a product claims. See point 8 of the Restriction Requirement. Claims 11 and 27-44 now depend from allowable claim 1, should be examined, and should be deemed allowable as well.

Claims 45 and 46 are directed to the peptide of SEQ ID NO: 5, and its use as a binder to determine if HLA-A2 is present. The Examiner argues, essentially, that SEQ ID NO: 5 is not enabled because it only binds 72% as strongly as does SEQ ID NO: 3. The relevance of this to enablement of the peptide and to binding assays is not seen, as there are no quantitative requirements in the claims. All that is required for, e.g., claim 45, is that the peptide bind - a fact admitted in the final rejection. While one could also argue that the Examiner has not presented any arguments to show that the peptide would NOT function in a similar manner, the fact is that, given the claims, the Examiner's position simply cannot be maintained.

Prompt and favorable action in this application are requested.


Application No. 10/670,472
Amendment dated February 13, 2007
After Final Office Action of November 16, 2006

Docket No.: NY-LUD 5780.2 (10312064)

Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 50-0624, under Order No. NY-LUD 5780.2 (10312064) from which the undersigned is authorized to draw.

Dated: February 13, 2007

Respectfully submitted,

By 

Norman D. Hanson

Registration No.: 30,946

FULBRIGHT & JAWORSKI L.L.P.

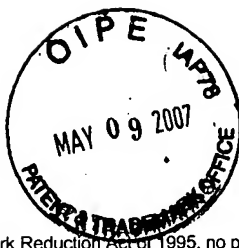
666 Fifth Avenue

New York, New York 10103

Attorney for Applicant

(212) 318-3000

(212) 318-3400 (Fax)



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Application No. (if known): 10/670,472

Attorney Docket No.: NY-LUD 5780.2

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Amendment After Final Action Under 37 C.F.R. 1.116